

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF WEST VIRGINIA  
CHARLESTON DIVISION

IN RE: DIGITEK PRODUCTS  
LIABILITY LITIGATION

MDL Docket No. MDL 1968  
2:08-md-01968  
HONORABLE JOSEPH R. GOODWIN

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APPLICATION OF THOMAS J. PREUSS FOR APPOINTMENT  
TO THE PLAINTIFFS' STEERING COMMITTEE

Please consider this my Application for Appointment to the Plaintiffs' Steering Committee. In support thereof, applicant shows this Court that he has the (a) willingness and availability to commit to this time consuming project; (b) ability to work cooperatively with others; and (c) professional experience in this type of litigation. Applicant has filed one Digitek lawsuit to date (bearing case number **2:08-1152**) and expects to file several more in the near future.

**A. AVAILABILITY**

Mr. Preuss presently has the time, financial resources, energy and interest to actively pursue this time-consuming litigation. Mr. Preuss realizes the time and energy necessary to devote to this project and commits to providing the work to properly pursue it. In fact, a large number of cases in his docket are currently in the midst of resolution, which will allow Mr. Preuss to heavily focus on this case.

As a member of a firm with approximately twenty attorneys, Mr. Preuss can assure that adequate staff and financial backing is devoted to this litigation to ensure proper pursuit. Mr. Preuss and the members of his firm understand that an appointment to the PSC will be an extremely significant commitment, but one they are willing to take on.

Mr. Preuss has seen the devastating effects that the defects of this product can have on people who ingested it, and consequently, has developed an avid interest in this litigation. With the interest and energy necessary to pursue a project like this and the available time and resources required to properly prosecute this type of case, Mr. Preuss can assure this Court of his commitment to this case.

#### **B. ABILITY TO WORK WITH OTHERS**

Mr. Preuss and other members of his firm have demonstrated the ability in mass tort and pharmaceutical cases to work cooperatively with others, including his fellow attorneys, the courts and opposing counsel. Indeed, civility and cooperation are principles upon which Mr. Preuss and his firm base all their professional and everyday dealings. Mr. Preuss has successfully worked with many of the other applicants for this PSC and is confident of his abilities to work cooperatively with them and all other plaintiff's counsel in this case. Having also practiced as a defense attorney, Mr. Preuss realizes that the most effective path to resolution of any matter is zealous advocacy accompanied by civility with opposing counsel. As with his entire practice, Mr. Preuss will utilize these attributes in this case.

#### **C. PROFESSIONAL EXPERIENCE**

A large majority of Mr. Preuss' practice is in the areas of mass torts and product liability litigation. He has successfully prosecuted cases involving this type of litigation.

Mr. Preuss has been involved in the Vioxx, Avandia, Guidant, Ephedra, Trasyolol and Celebrex/Bextra litigations throughout the country for approximately the last five years. He is a member of the PSC discovery committee and science/expert committee in the Celebrex/Bextra consolidated MDL, the PSC science committee in the Avandia MDL,

and was recently selected as a member of the PSC deposition committee in the Trasylol MDL. He has successfully represented hundreds of plaintiffs whose cases went through the MDL process in Vioxx, Celebrex/Bextra, Guidant and Ephedra litigations. He has personally taken depositions of numerous fact witnesses, including key corporate employees, and expert witnesses in these litigations and was a member of the trial team for the first Bextra MDL trial.

Mr. Preuss is a member of the Missouri and Kansas State Bars. He has lectured on various topics related to civil litigation and mass tort litigation.

WHEREFORE, for all the foregoing reasons, movant prays this Honorable Court for consideration of his appointment to the Plaintiffs' Steering Committee.

Respectfully submitted,

/s/Thomas J. Preuss  
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**CERTIFICATE OF SERVICE**

The undersigned certifies that on the 20<sup>th</sup> day of October, 2008 the above and foregoing document was electronically filed, and notification of such filing was made by the Court via e-mail to all counsel electronically registered with the Court.

/s/Thomas J. Preuss  
Thomas J. Preuss